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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement the  
Commission's Procurement Incentive Framework  
and to Examine the Integration of Greenhouse Gas  
Emissions Standards into Procurement Policies.

Rulemaking R.06-04-009

**COMMENTS OF THE GREEN POWER INSTITUTE ON THE  
PROPOSED DECISION OF COMMISSIONER PEEVEY AND ALJ GOTTSTEIN**

December 27, 2006

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## **COMMENTS OF THE GREEN POWER INSTITUTE ON THE PROPOSED DECISION OF COMMISSIONER PEEVEY AND ALJ GOTTSTEIN**

### **Introduction**

Pursuant to Rule 14.3 of the Commission's revised Rules of Practice and Procedure, the Green Power Institute (GPI) respectfully submits these *Comments of the Green Power Institute on the Proposed Decision of Commissioner Peevey and ALJ Gottstein*, in R.06-04-009, the **Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies**. In a word, this is an excellent piece of work, and all who have contributed to this Proposed Decision (PD) should be proud. California has embarked on a challenging program to control greenhouse gases. Judging by this early policy action that the Commission is taking, it appears that we are off to a promising start. Our *Comments on the PD* are limited to a couple of technical corrections that need to be made to the text.

### **GPI Position on Baseload Capacity Factor Threshold**

In discussing the capacity factor threshold that should be applied to the interim EPS, the PD mischaracterizes the GPI's position:

In their comments, Green Power Institute (GPI) recommends that the EPS be applied to generation from facilities with an annual plant capacity factor of at least 50 percent, rather than the 60 percent capacity factor directed by SB 1368. To do as GPI suggests would directly contradict the plain language of the statute. Accordingly, the interim EPS will apply to baseload generation as that term is defined in SB 1368. (*PD*, page 37)

Finding of Fact no. 15: GPI's recommendation that the EPS be applied to generation from facilities with an annual plant capacity factor of at least 50 percent directly contradicts the plain language of SB 1368. (*PD*, page 175)

The suggestion that our recommendation to adopt a fifty percent capacity factor threshold for the interim EPS **directly contradicts the plain language of SB 1368** is simply not fair. Our original suggestion to adopt a fifty percent capacity factor prior to the passage of SB 1368 was made in response to discussions during the June 21 – 23, 2006, Workshops, and the July 6, 2006, *DSP staff memo*, which stated that the Commission's interim EPS was intended: "to cover baseload, high-use intermediate, and shaping facilities (*DSP Memo*, page 3)." In our July 27, 2006, *Post-Workshop Comments*, the GPI argued:

There was general agreement at the June workshops that the interim EPS should not apply to peaking facilities, or facilities with limited annual operating hours. The staff straw proposal uses a definition for "covered resources" as those with an annual capacity factor of 60 percent or greater. According to the July 6, 2006, DSP memo, this capacity factor is intended: "to cover baseload, high-use intermediate, and shaping facilities (*DSP Memo*, page 3)." The Green Power Institute believes that the proposed annual average capacity factor of 60 percent is too high to capture all of the generators that should be subject to the standard, consistent with the objectives delineated in the DSP memo. (Page 7)

Operations with annual capacity factors in the range of 50 – 60 percent provide high-duty intermediate load and shaping services. These facilities are neither peaking facilities, nor facilities expected to operate relatively few hours during the year. These generators should not be exempt from the standard. (Page 8)

After SB 1368 was enacted we acknowledged and agreed with the definition of baseload contained in the legislation, which is that baseload is defined as a minimum capacity factor of sixty percent. This definition is entirely consistent with the approach we took in our July 27, 2006, *Comments* (above):

SB 1368 limits its mandate to baseload procurements, a subset of the procurements for which the Commission originally stated its intention to cover in the July 6, 2006, DSP memo. For purposes of defining baseload alone, the minimum annual capacity factor of 60 percent in SB 1368 is appropriate. (*GPI Comments on the Final Workshop Report*, Oct. 18, 2006, pages 1 – 2)

In our Sept. 8, 2006, *Comments*, we asked the Commission to consider going beyond the minimum requirements in SB 1368, and set the specifications for the interim EPS standard based on the *DSP Memo*'s original, more encompassing goals:

We encourage the Commission to go beyond the minimal obligations imposed by the new legislation, and include high-use intermediate and shaping facilities in the definition of covered resources, as originally intended. If the Commission chooses this course, a threshold annual capacity factor of 50 percent is more appropriate to use as the definition of covered resources. (*GPI Comments on Draft Workshop Report*, Sept. 8, 2006, page 2)

We respect and support the approach taken in the PD to limit itself to satisfying the requirements contained in SB 1368. We are not asking the Commission to reconsider the sixty percent capacity factor threshold that is adopted in the PD. However, we believe that it is unfair to Find that the GPI has asked the Commission to **directly contradict the plain language of SB 1368**. At no time have we questioned or contradicted the definition of baseload generation that is contained in SB 1368. We asked the Commission to consider imposing a more encompassing standard that what is required by the legislation, not to impose a standard that contradicts the legislation. We respectfully request that the discussion in the PD on this subject be modified to more accurately reflect our position.

#### **Technical Correction in the Section on Renewables**

The Proposed Decision adopts the GPI's analysis of the net greenhouse gas emissions of biomass and biogas generators, based on research that we had entered into the record of this proceeding, but makes one error that needs to be corrected. This error is inconsequential, as the underlying analysis that is presented in the PD was conducted using the correct information. The erroneous statement turns up twice, on pages 16 and 105:

Since methane gas is some twenty-five times more potent as a GHG than CO<sub>2</sub>, and since **the two gases have similar atmospheric residence times**, ... (*PD*, page 16, repeated verbatim on page 105, erroneous statement shown in bold).

In fact, as shown in Table 5, page 43, of the chapter on greenhouse gas emissions that the GPI had entered into the record of this proceeding,<sup>1</sup> CO<sub>2</sub> has an atmospheric residence time of 120 years, while CH<sub>4</sub> has an atmospheric residence time of 12 years, ten times shorter. CH<sub>4</sub> clears from the atmosphere by oxidizing into CO<sub>2</sub>, so in the long run their

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<sup>1</sup> Morris, G., *Biomass Energy Production in California: The Case for a Biomass Policy Initiative*, NREL Report No. NREL/SR-570-28805, November 2000, pages 38 – 50.

effects merge. We recommend the following replacement text for the two occurrences of the above quote (suggested replacement text shown in red):

Since methane gas is some twenty-five times more potent as a GHG than CO<sub>2</sub>, and since ~~the two gases have similar atmospheric residence times~~ methane has an atmospheric residence time of twelve years, after which it is converted to atmospheric CO<sub>2</sub>, ...

## Conclusion

The Green Power Institute congratulates the Commission on the production of the *Interim Opinion on Phase 1 Issues: Greenhouse Gas Performance Standard*. A couple of corrections are needed, as discussed above in our *Comments*, but the basic Decision is sound and ready to go into effect. The Commission's efforts in phase 1 of this proceeding are already making an impact in western energy markets, further cementing California's leadership role in combating climate change.

Dated December 27, 2006, at Berkeley, California.

Respectfully Submitted,



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PROOF OF SERVICE

I hereby certify that on December 27, 2006, I have served a copy of the COMMENTS OF THE GREEN POWER INSTITUTE ON THE PROPOSED DECISION OF COMMISSIONER PEEVEY AND ALJ GOTTSTEIN upon all parties listed on the Service List for this proceeding, R-06-04-009. All parties have been served by email or first class mail, in accordance with Commission Rules.

  
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Gregory Morris